

ES
4/20/92

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

0528

UNITED STATES OF AMERICA,

Plaintiff,

v.

STANDARD T. CHEMICAL COMPANY, INC.,)
THE GLIDDEN COMPANY,)
CROWN CORK & SEAL CO., INC.,)
BRIGHTLY GALVANIZED PRODUCTS, INC.,)
COLLIS COMPANY,)
DEMERT & DOUGHERTY, INC.,)
USX CORPORATION,)
PIERCE & STEVENS CHEMICAL COMPANY,)
VENICULUM, INC.,)
CONTAINER CORPORATION OF AMERICA,)
NATIONAL PRECISION CIRCUITS &)
ELECTRONICS, INC.,)
PRECISION TWIST DRILL COMPANY,)
LTV STEEL COMPANY, and)
WYMAN GORDON COMPANY)

Defendants.

US EPA RECORDS CENTER REGION 5



403688

CIVIL ACTION NO.

89 C 5730

Judge Norgle

MAR 23 1992

PARTIAL CONSENT DECREE

WHEREAS Plaintiff, the United States of America, on behalf
of the United States Environmental Protection Agency, having
filed a Complaint on July 25, 1989 under Section 107 of the
Comprehensive Environmental Response Compensation and Liability
Act, 42 U.S.C. §9607;

WHEREAS the United States alleged in the Complaint, inter alia, that Defendants were liable for past and future response costs incurred by the United States in the course of responding to releases and threatened releases of hazardous substances into

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the environment from the U.S. Scrap Site, located at 12300 S. Cottage Grove, Chicago, Illinois;

WHEREAS no party to this Consent Decree admits such liability;

WHEREAS the United States and Settling Defendants, having agreed that the settlement of this matter without further litigation at this time is in the public interest, and the Court being duly advised in the premises;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without the admission or any adjudication on any issue of fact or law, and upon the consent and agreement of the parties to this Consent Decree by their attorneys and authorized officials, it is hereby Ordered, Adjudged, and Decreed as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action and over the parties to this Decree, pursuant to 28 U.S.C. § 1331 and § 1345, and CERCLA Sections 107(a), and 113(b), 42 U.S.C. § 9607(a) and § 9613(b). The parties agree to be bound by the terms of this Decree and not to contest its validity in any subsequent proceeding arising from it.

2. Venue is proper in this Court pursuant to 42 U.S.C. § 9613(b) and under 28 U.S.C. §§ 1391(b) and (c).

II. AUTHORITY

3. This Consent Decree shall apply to and be binding upon the Settling Defendants (including their successors, assigns) and the United States. Taken together, the collection of undersigned representatives for each party to this Consent Decree certify that they are fully authorized to enter into this Consent Decree, execute it, and bind their respective party to this Consent Decree. The parties agree not to contest the validity of this Decree in any subsequent proceeding arising from it.

III. DEFINITIONS

The following definitions shall apply in this Consent Decree:

4. "Settling Defendants" means all Defendants named in this civil action except LTV Steel Co., i.e.: Standard T. Chemical Company, Inc.; The Glidden Company; Crown Cork & Seal Company, Inc.; Collis Company; Brightly Galvanized Products, Inc.; DeMert & Dougherty, Inc.; USX Corporation; Pierce & Stevens Chemical Company; Veniculum, Inc.; Container Corporation of America; National Precision Circuits & Electronics, Inc.; Precision Twist Drill Company; and Wyman Gordon Company.

5. "Response Costs" shall have the meaning ascribed to that term in 42 U.S.C. §9607(a).

6. "Federal Response Costs" are all Response Costs with respect to the U.S. Scrap Site incurred by or on behalf of the

United States Environmental Protection Agency or the United States Department of Justice on or before June 30, 1990, including any interest on such costs.

7. "U.S. Scrap Site" means the site located at 12300 S. Cottage Grove Avenue, Chicago, which was used as a site for the disposal of various substances, and which was operated under several different names, including: U.S. Scrap Corp., Liquid Engineering, U.S. Debarrelling, and Liquified Engineering.

8. "EPA" or "U.S. EPA" means United States Environmental Protection Agency.

9. "Administrative Settlement" means the pending settlement proposed under Section 122(h) of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9622(h). Notice of this settlement appeared in the Federal Register on May 3, 1990 (55 Fed. Reg. 18667).

10. "Settling Federal Department" means the United States Department of the Army, which is part of the United States.

IV. REIMBURSEMENT OF FEDERAL RESPONSE COSTS

11. In settlement of Federal Response Costs sought from Settling Defendants, the Settling Defendants agree to pay and agree to be jointly and severally liable for paying the United States the amount of \$310,000 plus interest, as specified in more detail in the remaining paragraphs of Section IV of this Consent Decree.

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12. The Clerk of the Court shall pay to the United States, as specified in paragraph 15 below, the monies previously paid to the Clerk (\$291,407.62), by the Settling Defendants, under Magistrate Lefkow's Order dated June 28, 1990. This payment to the United States also shall include all interest earned on the monies paid to the Clerk, less any handling or administrative fee normally charged by the Clerk.

13. Owing to the date on which Defendant Wyman Gordon Company paid settlement monies to the Clerk of the Court, Settling Defendants also shall pay the United States the sum of \$272.35 to cover lost interest and handling expenses.

14. The Settling Defendants also shall pay to the United States \$18,592.38, plus interest thereon, at the rate provided for by 28 U.S.C. Section 1961, from July 1, 1990 to the date of entry of this decree.

15. Payment by Settling Defendants of monies not on deposit with the Clerk of the Court shall be delivered to EPA within eleven business days after the date on which this Decree is entered by the Court. Payment of monies already on deposit with the Clerk of the Court shall be delivered to EPA by the Clerk within 60 days after the date on which this Decree is entered by the Court. By entering this Partial Consent Decree, the Court directs the Clerk to deliver monies to EPA on the terms specified in this Decree. All payments, including payments which involve monies already on deposit with the Clerk of the Court, shall be made by certified or cashier's check payable to the "EPA

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Hazardous Substance Superfund," and shall be delivered to: U.S. EPA, Superfund Accounting, P.O. Box 70753, Chicago, Illinois 60673. The check or transmittal letter shall refer to "U.S. Scrap Site, Chicago, Illinois" and to "United States v. Standard T. Chemical Co., Inc., et al, No. 89 C 5730 (N.D. Ill.) (D.J. No. 90-11-3-465)." A copy of the payment check and transmittal letter shall be sent to each of the following: Waste Management Division, Technical Support Section, Responsible Party -- Cost Recovery Unit (5HR-11); Financial Accounting Section (5MF-14); and Office of Regional Counsel (5CS-16) -- all at the following address:

United States Environmental Protection Agency
230 South Dearborn Street
Chicago, Illinois 60604.

16. Payment shall be deemed accomplished upon receipt by EPA of all checks required to accomplish payment of all amounts established by Section IV of the Decree.

V. PAYMENT OF FEDERAL RESPONSE COSTS BY SETTling FEDERAL DEPARTMENT

17. On behalf of the Settling Federal Department, in reimbursement of Federal Response Costs, the United States shall cause \$5,700 to be transferred to the EPA Hazardous Substance Superfund.

18. Upon entry of this Consent Decree, transfer of the \$5,700 shall be made in a timely fashion and shall be sent to the EPA Hazardous Substance Superfund. Notice of transfer of funds to the EPA Hazardous Substance Superfund shall be sent to each of

the following: Waste Management Division, Technical Support Section, Responsible Party Cost Recovery Unit (5HR-11); Financial Accounting Section (5MF-14); and Office of Regional Counsel (5CS-16) -- all at the following address:

19. United States Environmental Protection Agency
230 South Dearborn Street
Chicago, Illinois 60604.

20. Payment shall be deemed accomplished upon receipt by EPA Hazardous Substance Superfund of the \$5,700.

21. Nothing in this Section of the Decree shall be interpreted or applied to impose or require any obligation in violation of the Anti-Deficiency Act. 31 U.S.C. §1341.

VI. COVENANT NOT TO SUE SETTLING DEFENDANTS

22. Upon timely receipt of all monies due the United States under Section IV of this Decree, the United States on behalf of EPA covenants not to sue or take any other civil judicial or administrative action against the Settling Defendants, other than enforcing the terms of this Consent Decree, for the recovery of Federal Response Costs. The United States expressly reserves, and this Decree shall be without prejudice to, any other claims that the United States may have, including, without limitation, any claims against the Settling Defendants under CERCLA for Response Costs not covered by this Decree. Specifically, this covenant not to sue shall, without limitation, not include or in any way affect any other claims that the United States may have, including but not limited to the following:

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1) Claims of the United States for recovery of any Response Costs incurred after June 30, 1990;

2) Claims of the United States for interest on the foregoing;

3) Claims of the United States for damages to natural resources;

4) Claims of the United States under Section 106 of CERCLA, 42 U.S.C. § 9606.

23. This covenant not to sue is not, and shall not be construed to be, a release of any kind.

24. This covenant not to sue shall become effective upon the timely payment to the United States of all sums provided for in Section IV of this Decree.

25. Nothing in this Decree is intended as a covenant not to sue or a release from liability for any person or entity other than the Settling Defendants and the United States. The United States and Settling Defendants expressly reserve all claims, demands and causes of action either judicial or administrative, past or future, in law or equity, which the United States or any Settling Defendant may have against any person, firm, corporation, or other entity not a party to this Decree for any matter arising at or relating in any manner to the U.S. Scrap Site.

26. It is the intent of the parties to this Consent Decree that all entities that are paying monies under this Decree toward reimbursement of Federal Response Costs will have resolved their

liability for Federal Response Costs upon timely receipt by U.S. EPA of all monies due U.S. EPA under this Decree, and will be entitled to contribution protection to the extent provided under CERCLA.

VII. RESPONSE AUTHORITY

27. Nothing in this Decree shall be deemed to limit the response authority of the United States under Section 104 of CERCLA, 42 U.S.C. § 9604, or the authority of the United States under Section 106 of CERCLA, 42 U.S.C. § 9606.

VIII. WAIVER AND DISMISSAL OF CLAIMS

28. In consideration of the entry of this Decree, the Settling Defendants agree not to, and shall not, make any claims against the United States, or each other, or the Hazardous Substances Superfund established by CERCLA Section 221, 42 U.S.C. § 9631, including any claim pursuant to Sections 111 and 112 of CERCLA, 42 U.S.C. § 9611 and § 9612, for Federal Response Costs, or for reimbursement or contribution regarding any costs incurred by the Settling Defendants at the U.S. Scrap Site, or for any attorneys' fees related to this action.

29. In further consideration of the entry of this Decree, the Settling Defendants dismiss with prejudice any counterclaims they did assert against the United States and cross-claims against each other in this civil action, and Settling Defendants also waive any counterclaims and cross-claims they could have

pleaded in this civil action, including but not limited to claims relating to the Settling Federal Department, to the extent such claims would arise out of the same transactions or occurrences that: 1) are the subject matter of the claim for relief pleaded in the Complaint that was filed by the United States in this civil action, and 2) are resolved by this Consent Decree.

30. In consideration of the United States of America's lodging this Decree, Settling Defendants withdraw any and all comments submitted to EPA, timely or otherwise, in response to the public notice in the Federal Register of the Administrative Settlement. This withdrawal is effective on the date this Decree is lodged with the Clerk of the Court by the United States.

IX. RETENTION OF JURISDICTION

31. The Court shall retain jurisdiction of this matter for the purpose of enforcing the terms of this Decree.

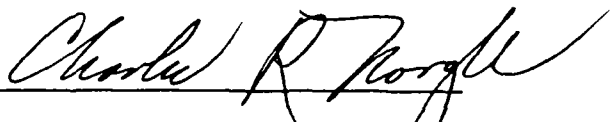
X. PUBLIC NOTICE AND COMMENT

32. The parties acknowledge that final approval by the United States and entry of this Partial Consent Decree is subject to receipt of public comments by the Department of Justice during a 30 day comment period following publication of notice of this Partial Consent Decree in the Federal Register, as well as consideration of any such comment received as a result of the notice-and-comment-period procedures.

XI. USE OF DECREE

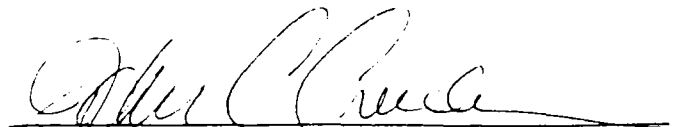
33. This Decree was negotiated and executed by the parties to avoid further expense and protracted litigation and to resolve certain claims which were contested as to validity and amount. With the exception of this proceeding, any proceeding to enforce this Decree, any proceeding between a party and an insurance company, and any proceeding for contribution or indemnity brought by a party to this Decree, it is the intent of the parties that this Decree shall not be admissible or be deemed an admission in any other action, except to the extent the Decree is offered into evidence by a party to this Decree in support of a claim or defense of such party. In paying or receiving the monies covered by this Decree, the parties did not intend that such payments or receipts would constitute fines, penalties, or sanctions.

So Ordered, 3/20, 1992.

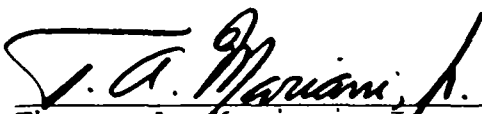

United States District Judge

BY THEIR COUNSEL, THE PARTIES ENTER INTO THIS CONSENT DECREE AND SUBMIT IT TO THE COURT, THAT IT MAY BE APPROVED AND ENTERED.

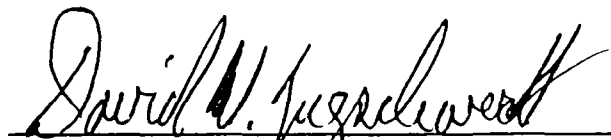
FOR THE UNITED STATES OF AMERICA



John C. Cruden
Chief
Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice



Thomas A. Mariani, Jr.
Environmental Enforcement Section
Environment & Natural Resources
Division
U.S. Department of Justice
(202) 514-4620 or FTS 368-4620



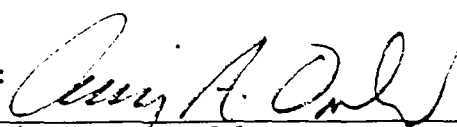
David Zugschwerdt
Environmental Defense Section
Environment & Natural Resources
Division
U.S. Department of Justice


Consent Decree Signature Page for:

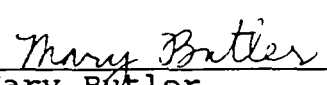
United States v. Standard T. Chemical Co., et al., Civ. No. 89 C
5730, N.D. Illinois.

Fred Foreman
United States Attorney
Northern District of Illinois

By:


Craig A. Oswald
Assistant United States Attorney
Northern District of Illinois


Valdas A. Adamkus
Regional Administrator
United States Environmental
Protection Agency, Region V


Mary Butler
Assistant Regional Counsel
United States Environmental
Protection Agency, Region V

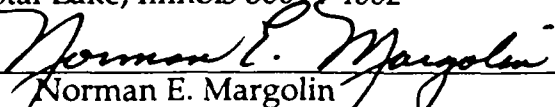
Consent Decree Signature Page for:

United States v. Standard T. Chemical Co., et al., Civ. No. 89 C
5730, N.D. Illinois.

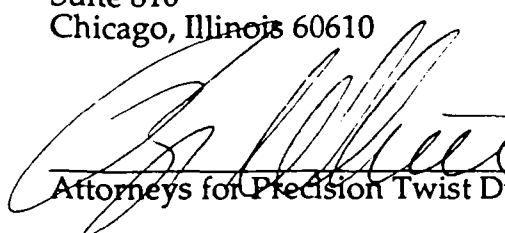
FOR SETTLING DEFENDANTS

Precision Twist Drill Co.
One Precision Plaza
Crystal Lake, Illinois 60014-4002

By


Norman E. Margolin
Executive Vice President, Finance


Karaganis & White Ltd.
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Suite 810
Chicago, Illinois 60610


Attorneys for Precision Twist Drill Co.

Consent Decree Signature Page for:
United States vs. Standard T Chemical Co., et al.
No. 89 C 5370 N.D. Illinois

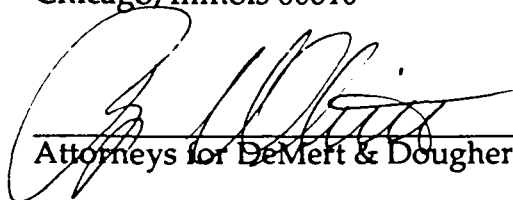
FOR SETTLING DEFENDANTS

DeMert & Dougherty, Inc.
814 Commerce Drive
Suite 310
Oak Brook, Illinois 60521-1964

By 

Jack Young, Director of Operations

Karaganis & White Ltd.
414 North Orleans Street
Suite 810
Chicago, Illinois 60610



Attorneys for DeMert & Dougherty, Inc.

Consent Decree Signature Page for:
United States vs. Standard T Chemical Co., et al.
No. 89 C 5370 N.D. Illinois

FOR SETTLING DEFENDANTS

NATIONAL PRECISION CIRCUITS & ELECTRONICS INC

[NAME AND ADDRESS OF DEFENDANT]

By

Eugene Propp
[name of officer]

[NAME AND ADDRESS OF DEFENDANT'S ATTORNEYS]

PROPP & SCHULTZ

Eugene Propp
Attorneys for [DEFENDANT]

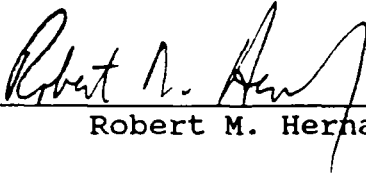
Consent Decree Signature Page for:
United States vs. Standard T Chemical Co., et al.
No. 89 C 5370 N.D. Illinois

Eugene Propp
ATTORNEY AT LAW
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CHICAGO, ILLINOIS 60603
(312) 236-5056

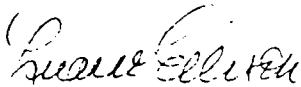
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FOR SETTLING DEFENDANTS

USX CORPORATION

By 
Robert M. Hernandez

Luanne Ellision
GESSLER, FLYNN, FLEISCHMANN
HUGHES & SOCOL, LTD.
Three First National Plaza
Suite 2200
Chicago, Illinois 60602
(312) 580-0100

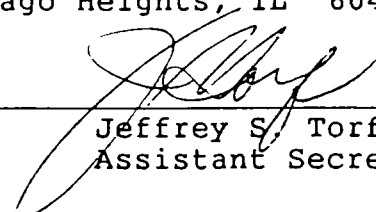


Attorneys for USX Corporation

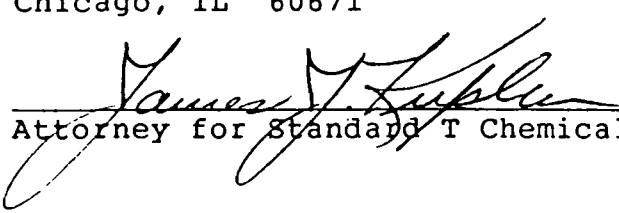
FOR SETTLING DEFENDANTS

STANDARD T CHEMICAL COMPANY, INC.
290 E. Joe Orr Road
Chicago Heights, IL 60411

By


Jeffrey S. Torf
Assistant Secretary

James J. Kupka
One Montgomery Ward Plaza
Chicago, IL 60671


Attorney for Standard T Chemical Company, Inc.

Consent Decree Signature for:

United States vs. Standard T Chemical Co., et al.
No. 89 C 5370 N.D. Illinois

FOR SETTLING DEFENDANTS

CROWN CORK AND SEAL COMPANY, INC.

By: Richard L. Krzyzanowski
Richard Krzyzanowski

Dated: June 7, 1991

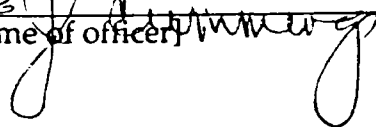
HAROLD A. HARRIS, LTD.
29 S. LaSalle - Suite 740
Chicago, Illinois 60603
Tel. 312/236-7587

By: Robert P. Harris
Robert P. Harris
Attorneys for Defendant

Consent Decree Signature Page for:
United States vs. Standard T. Chemical Co., et al.
No. 89 C 5370 N.D. Illinois

FOR SETTLING DEFENDANTS

[NAME AND ADDRESS OF DEFENDANT]

Ed Cummins
Verniculum In
By 1130 S. Salem ARLINGTON HTS, ILL 60007
[name of officer] 

[NAME AND ADDRESS OF DEFENDANT'S ATTORNEYS]

Attorneys for [DEFENDANT]

Consent Decree Signature Page for:
United States vs. Standard T Chemical Co., et al.
No. 89 C 5370 N.D. Illinois

FOR SETTLING DEFENDANTS

BRIGHTLY GALVANIZED PRODUCTS, INC.

By

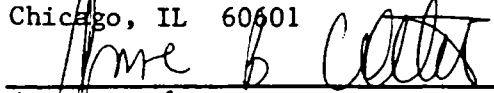


CHARLES F. BRIGHTLY, President

LEVIN & GINSBURG LTD.

180 N. LaSalle Street, Suite 2210

Chicago, IL 60601



Attorneys for Brightly Galvanized Products, Inc.

Consent Decree Signature Page for:
United States vs. Standard T Chemical Co., et al.
No. 89 C 5370 N.D. Illinois

FOR SETTLING DEFENDANTS

Wyman-Gordon Company
105 W. Madison Street
Worcester, MA 01615
[NAME AND ADDRESS OF DEFENDANT]

By

Kenneth C. Pratt

[name of officer] Corporate Counsel

[NAME AND ADDRESS OF DEFENDANT'S ATTORNEYS]

Winston & Strawn

35 W. Wacker Drive

Chicago, IL 60601

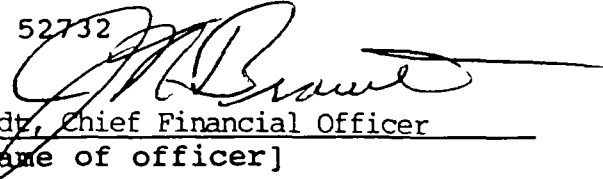
Wyman-Gordon Company

Attorneys for [DEFENDANT]

Consent Decree Signature Page for:
United States vs. Standard T Chemical Co., et al.
No. 89 C 5370 N.D. Illinois

FOR SETTLING DEFENDANTS

Collis Inc.
2005 South 19th Street
P.O. Box 231
Clinton, IA 52732

By  J. N. Braudt, Chief Financial Officer
[name of officer]

Winston & Strawn
35 W. Wacker Drive
Chicago, IL 60601

Attorneys for Defendant Collis Inc.

Consent Decree Signature Page for:
United States vs. Standard T. Checmical Co., et al.
No. 89 C 5370 N.D. Illinois

FOR SETTLING DEFENDANTS

THE GLIDDEN COMPANY
925 Euclid Avenue
Suite 900
Cleveland, Ohio 44115

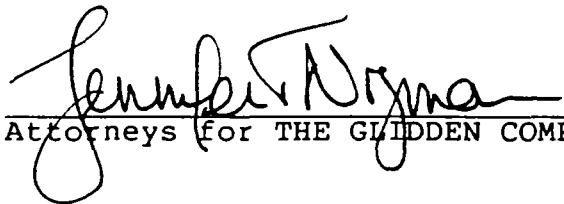
By:



[Name of Officer]

Stanley A. Lockitski
Vice President & General Counsel

COFFIELD UNGARETTI HARRIS & SLAVIN
3500 Three First National Plaza
Chicago, Illinois 60602



Attorneys for THE GLIDDEN COMPANY

Consent Decree Signature Page for
United States vs. Standard T Chemical Co., et al.
No. 89 C 5370 N.D. Illinois

PARTIAL CONSENT DECREE SIGNATURE PAGE

United States v. Standard T. Chemical Company, Inc., et al.
No. 89 C 5730 (N.D.Ill)

FOR SETTLING DEFENDANTS

CONTAINER CORPORATION OF AMERICA
8182 Maryland Avenue
St. Louis, Missouri 63105

By William H. Hargis

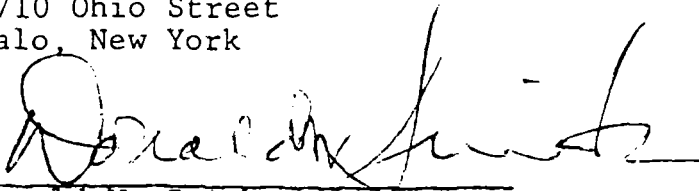
Title Vice President & General Counsel

Dated: 12th day of June, 1991

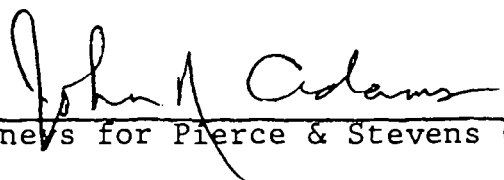
FOR SETTLING DEFENDANTS

Pierce & Stevens Chemical Corp.
706-710 Ohio Street
Buffalo, New York

By


Donald W. Smith
Corporate Vice-President
Safety and Environmental Affairs
PIRATE LAMBERT, Inc.

John R. Adams
Taylor, Miller, Sprowl, Hoffnagle & Merletti
33 North LaSalle Street
Chicago, Illinois 60602


Attorneys for Pierce & Stevens Chemical Corp.

Consent Decree Signature Page For:
United States vs. Standard T Chemical Co. et al.
No. 89 C 5730 N.D. Illinois

United States District Court

Northern District of Illinois

Eastern Division

I, H. Stuart Cunningham, Clerk of the United States District Court for the Northern District of Illinois, do hereby attest and certify that the document is a full, true, and correct copy of the original(s) on file X documents are in my office and in my legal custody.

IN TESTIMONY WHEREOF, I have hereunto
subscribed my name and affixed the seal
of the aforesaid Court at Chicago, Illinois
on 3-30-92

H. STUART CUNNINGHAM, CLERK FOR THE UNITED STATES DISTRICT COURT

By Laura Spencer Clerk



UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS

Name of Assigned Judge or Magistrate Judge	Charles R. Norgle	Sitting Judge if Other Than Assigned Judge	
Case Number	89C 5730	Date	MARCH 20, 1992
Case Title	UNITED STATES OF AMERICA vs. STANDARD T. CHEMICAL COMPANY, INC., et al.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd-party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

ORDER

Sent for Microfilming

MAR 23 1992

Filmed on

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "MOTION" box above]
- (2) ☐ Brief in support of motion due MAR 24 1992
- (3) ☐ Answer brief to motion due _____ Reply to answer brief due _____
- (4) ☐ Ruling on _____ set for _____ at _____
☐ Hearing
- (5) ☐ Status hearing ☐ held ☐ continued to ☐ set for ☐ re-set for _____ at _____
- (6) ☐ Pretrial conf. ☐ held ☐ continued to ☐ set for ☐ re-set for _____ at _____
- (7) ☐ Trial ☐ Set for ☐ re-set for _____ at _____
- (8) ☐ Bench Trial ☐ Jury Trial ☐ Hearing held and continued to _____ at _____
- (9) ☐ This case is dismissed ☐ without ☐ with prejudice and without costs ☐ by agreement ☐ pursuant to
☐ FRCP 4(j) (failure to serve) ☐ General Rule 21 (want of prosecution) ☐ FRCP 41(a)(1) ☐ FRCP 41(a)(2)
- (10) ☒ [Other docket entry] Enter partial consent decree.

- (11) ☒ [For further detail see ☐ order on the reverse of ☒ order attached to the original minute order form.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input checked="" type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate Judge.	courtroom deputy's	Date/time received in central Clerk's Office	87245 MAR 23 1992 RECEIVED 52 MAR 23 1992 MAR 23 1992	number of notices date docketed docketing dpty. initials date mailed notice mailing dpty. initials	Document # 162